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09/557,153	04/24/2000	Charles C. Brackett	15UL-5584	7268
23566	7590	10/07/2003	EXAMINER	
OSTRAGER CHONG & FLAHERTY LLP			FRENEL, VANEL	
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NEW YORK, NY 10022-7519			3626	

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,153

Applicant(s)

BRACKETT, CHARLES C.

Examiner

Vanel Frenel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/07/03 has been entered.

Notice to Applicant

2. This communication is in response to the RCE filed 07/07/03. Claims 1-18 have been cancelled. Claims 19-35 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 19-35 are rejected under U.S.C. 103 (a) as being unpatentable over Teshima (6,272,470) in view of Koritzinsky et al (2001/0018659).

(A) As per claim 19, Teshima discloses an imaging system comprising:

an operator interface for enabling an operator to input selections to said system (Col.5, lines 1 –34); a display screen (Col.7, lines 24-27); a control platform for controlling said display screen to display a first screen comprising a Patient's Name field for displaying a patient's name and an Exam Description field for displaying an exam description in response to a first selection input by the operator via said operator interface (See Teshima, Col.13, lines 1-67 to Col.14, line 67; Col.16, lines 1-67).

Teshima does not explicitly disclose an exam list manager for controlling said display screen to display a second screen in place of said first screen in response to a second selection input by the operator via said operator interface, said second screen comprising a multiplicity of Exam Description fields in list format for displaying a corresponding multiplicity of exam descriptions in a stored linked list of exam descriptions arranged in alphabetic order, an Edit field in which the operator can enter an exam description to be added to said linked list, and a first activation zone for activating the insertion in alphabetic order of the exam description in said Edit field to said displayed list of exam descriptions in response to clicking on said first activation zone via said operator interface, wherein said control platform further controls said display screen to display an updated version of said first screen in place of said second screen in response to selection of one of said exam descriptions displayed on said second screen via said operator interface followed by a third selection input by the

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operator via said operator interface,, said Exam Description field of said updated version of said first screen displaying said selected exam description.

However, these features are known in the art, as evidenced by Koritzinsky. In particular, Koritzinsky suggests an exam list manager for controlling said display screen to display a second screen in place of said first screen in response to a second selection input by the operator via said operator interface, said second screen comprising a multiplicity of Exam Description fields in list format for displaying a corresponding multiplicity of exam descriptions in a stored linked list of exam descriptions arranged in alphabetic order, an Edit field in which the operator can enter an exam description to be added to said linked list, and a first activation zone for activating the insertion in alphabetic order of the exam description in said Edit field to said displayed list of exam descriptions in response to clicking on said first activation zone via said operator interface, wherein said control platform further controls said display screen to display an updated version of said first screen in place of said second screen in response to selection of one of said exam descriptions displayed on said second screen via said operator interface followed by a third selection input by the operator via said operator interface,, said Exam Description field of said updated version of said first screen displaying said selected exam description (See Koritzinsky, Col.8, Paragraphs 0062- 0064).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Koritzinsky within the system of Teshima with the motivation of providing an interface which may also permit the protocol to be loaded

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or requested for specific examinations by simply selecting the protocol from a menu (See Koritzinsky, Col.1, Paragraph 0009).

(B) As per claim 20, Teshima discloses the system further comprising a hard disk and means for writing said linked list to said hard disk (See Teshima, Col.3, lines 53-67; Col.7, lines 25-67).

(C) As per claim 21, Koritzinsky discloses the system wherein said exam list manager further controls said display screen to display a second activation zone for activating the deletion of the exam description in said Edit field from said displayed list of exam descriptions in response to clicking on said second activation zone via said operator interface (Koritzinsky, Col.6, Paragraphs 0053-0055).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claim 19, and incorporated herein.

(D) A per claim 22, Koritzinsky discloses the system wherein said exam list manager further controls said display screen to display a third activation zone for activating the deletion of all exam descriptions in said displayed list in response to clicking on said third activation zone via said operator interface (Koritzinsky, Col.8, Paragraphs 0059-0062).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claim 19, and incorporated herein.

(E) As per claim 23, Koritzinsky discloses the system further comprising:
a networking port for communicating with a remote device on a network (Col.3, Paragraphs 0033-0034); an image acquisition subsystem for acquiring frames of image data (Col.3, Paragraphs 0030-0032); memory storing acquired frames of image data in respective image files (Col.4, Paragraphs 0036-0038); an object constructing task for constructing a data object comprising a frame of image data from one of said image files and said selected exam description (Col.7, Paragraphs 0054-0056); and a network manager for transferring said data object from said object constructing task to said networking port destined for said remote device (See Koritzinsky, Col.3, Paragraphs 0033-0034).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claim 19, and incorporated herein.

(F) As per claim 24, Koritzinsky discloses the system further comprising an image acquisition subsystem for acquiring frames of image data, said image acquisition subsystem comprising an ultrasound transducer array (See Koritzinsky, Col.1, Paragraph 0003).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claim 19, and incorporated herein.

(G) As per claim 25, Teshima discloses an imaging system comprising:

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an operator interface for enabling an operator to input selections to said system (Col.5, lines 1 –34); a display screen (Col.7, lines 24-27); and a computer programmed to perform the following steps: (a) controlling said display screen to display a first screen comprising a Patient's Name field for displaying a patient's name and an Exam Description field for displaying an exam description in response to a first selection input by the operator via said operator interface (See Teshima, Col.13, lines 1-67 to Col.14, line 67; Col.16, lines 1-67).

Teshima does not explicitly disclose (b) controlling said display screen to display a screen in place of said first screen selection input by the operator via said second screen comprising a Description fields in list format corresponding multiplicity of exam descriptions in a linked list of exam descriptions arranged an Edit field in which the operator description to be added to said linked list, and a first activation zone for activating the insertion in alphabetic order, second in response to a second said operator interface, multiplicity of, Exam for displaying a stored in alphabetic order, can enter an exam order of the exam description in said Edit field to said displayed list of exam descriptions in response to clicking on said first activation zone via said operator interface; and (c) controlling said display screen to display an updated in place of said second screen in of said exam descriptions via said operator interface input by the operator via said Exam Description field of said updated displaying said selected exam version of said first screen response to selection of one displayed on said second screen followed by a third selection operator interface, said version of said first screen description.

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However, these features are known in the art, as evidenced by Koritzinsky. In particular, Koritzinsky suggests (b) controlling said display screen to display a screen in place of said first screen selection input by the operator via said second screen comprising a Description fields in list format corresponding multiplicity of exam descriptions in a linked list of exam descriptions arranged an Edit field in which the operator description to be added to said linked list, and a first activation zone for activating the insertion in alphabetic order, second in response to a second said operator interface, multiplicity of, Exam for displaying a stored in alphabetic order, can enter an exam order of the exam description in said Edit field to said displayed list of exam descriptions in response to clicking on said first activation zone via said operator interface; and (c) controlling said display screen to display an updated in place of said second screen in of said exam descriptions via said operator interface input by the operator via said Exam Description field of said updated displaying said selected exam version of said first screen response to selection of one displayed on said second screen followed by a third selection operator interface, said version of said first screen description (See Koritzinsky, Col.8, Paragraphs 0062- 0064).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Koritzinsky within the system of Teshima with the motivation of providing an interface which may also permit the protocol to be loaded or requested for specific examinations by simply selecting the protocol from a menu (See Koritzinsky, Col.1, Paragraph 0009).

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(H) As per claim 26, Teshima discloses the system, further comprising a hard disk, said computer being further programmed to write said linked list to said hard disk in response to Save command input via said operator interface (See Teshima, Col.3, lines 53-67; Col.7, lines 25-67).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(I) As per claim 27, Koritzinsky discloses the system wherein said computer is further programmed to control said display screen to display a second activation zone for activating the deletion of the exam description in said Edit field from said displayed list of exam descriptions in response to clicking on said second activation zone via said operator interface (See Koritzinsky, Col.6, Paragraphs 0053-0055).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(J) As per claim 28, Koritzinsky discloses the system wherein **said** computer is further programmed to control said display screen to display a third activation zone for activating the deletion in said displayed list in response to activation zone via said operator of all exam descriptions clicking on said third interface (See Koritzinsky, Col.6, Paragraphs 0053-0055).

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The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(K) As per claim 29, Koritzinsky discloses the system further comprising a networking port for communicating with a remote device on a network, and an image acquisition subsystem for acquiring frames of image data, wherein said computer is further programmed with: an object constructing task for constructing a data object comprising an acquired frame of image data and said selected description (Col.7, Paragraphs 0054-0056); and a network manager for transferring said data object from said object constructing task to said networking port destined for said remote device (See Koritzinsky, Col.3, Paragraphs 0033-0034).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(L) As per claim 30, Koritzinsky discloses the system further comprising an ultrasound transducer array controlled by an image acquisition subsystem for acquiring frames of image data, said image acquisition subsystem in turn being controlled by said computer (See Koritzinsky, Col.1, Paragraph 0003; Col.3, Paragraphs 0030-0032).

(M) As per claim 31 Koritzinsky discloses an imaging system comprising:

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an operator interface for enabling an operator to input selections to said system (Col.3, Paragraphs 0033-0035); a display screen (Col.3, Paragraph 0030); a hard disk (Col.3, Paragraphs 0030; Col.4, Paragraphs 0038-0041); a transportable storage medium (Col.4, Paragraphs 0038-0041); and a computer programmed with exam description management software that allows a system user to construct a linked list of exam descriptions using a graphical interface displayed on said display screen, said constructed list being written to said hard disk, and system presets reading software that allows a system user to read all system presets, including said constructed list, from said hard disk and save said system presets to said transportable storage medium by inputting a save instruction input using said operator interface (Col.8, Paragraphs 0059-0064).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(N) As per claim 32, Koritzinsky discloses the system wherein said exam description management software allows said computer to perform the steps of controlling said display screen to display a first screen in response to the input of a Select Exam Description Screen instruction by the operator via said operator interface, said first screen comprising a multiplicity of Exam Description fields in list format for displaying a corresponding multiplicity of exam descriptions from a stored linked list of exam descriptions arranged in alphabetic order, an Edit field in which the operator can enter an

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exam description to be added to or deleted from said linked list, a first activation zone for activating the insertion in alphabetic order of the exam description in said Edit field to said displayed list and said stored linked list of exam descriptions in response to clicking via said operator interface, and deletion of the displayed list in response to said operator on said first activation zone a second activation zone for activating the exam description in said Edit field from said and said stored linked list of exam descriptions clicking on said second activation zone via interface (See Koritzinsky, Col.6, Paragraphs 0053-0055).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(O) As per claim 33, Koritzinsky discloses the system wherein said exam description management software further allows said computer to perform the following steps: controlling said display screen to display a second screen comprising a Patient's Name field for displaying a patient's for displaying an exam of a Select New Patient said operator interface (Col.8, Paragraphs 0062-0064); name and an Exam Description field description in response to the input Screen instruction by the operator via and controlling said display screen to display an updated version of said second screen in place of said first screen in response to selection of one of said exam descriptions displayed on said first screen via said operator interface followed by the input of a Select Exam Description instruction by the operator via said operator interface, said Exam Description field of said

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updated version of said second screen displaying said exam description selected from said displayed list on said first screen (Col.8, Paragraphs 0062-0064).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(P) As per claim 34, Koritzinsky discloses the system further comprising a networking port for communicating with a remote device on a network, and an image acquisition subsystem for acquiring frames of image data, wherein said computer is further programmed with: an object constructing task for constructing a data object comprising an acquired frame of image data and said selected description (Col.7, Paragraphs 0054-0056); and a network manager for transferring said data object from said object constructing task to said networking port destined for said remote device (See Koritzinsky, Col.3, Paragraphs 0033-0034).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

(Q) As per claim 35, Koritzinsky discloses the system further comprising an ultrasound transducer array controlled by an image acquisition subsystem for acquiring frames of image data, said image acquisition subsystem in turn being controlled by said computer (See Koritzinsky, Col.1, Paragraph 0003; Col.3, Paragraphs 0030-0032).

The motivation for combining the respective teachings of Teshima and Koritzinsky are as discussed above in the rejection of claims 19 and 25, and incorporated herein.

Response to Arguments

5. Applicant's arguments with respect to claims 19-35 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 07/07/03 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 07/07/03.

(A) At pages 8-9 of the 07/07/03 response, Applicant argues that the newly added features in the 07/07/03 amendment are not taught or suggested by the applied references.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 07/07/03 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Teshima, and /or Koritzinsky, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action (paper number 11), and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

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208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches an electronic medical records system (5,924,074), peripheral ultrasound imaging system (6,440,071) and computer-based medical image distribution system and method (6,260,021). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 703-305-4952. The examiner can normally be reached on 6:30am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

V.F
V.F

September 30, 2003


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600